

Notice of Allowability

Application No.

08/951,188

Examiner

David J. Steadman

Applicant(s)

PRICE, DAVID H.

Art Unit

1656

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on 7/18/2005.
2. ☒ The allowed claim(s) is/are 110-113, 116-136, 144-148, 152-156, 181, 184, 186-189, 191-193, 195-202, 204-208, 211-216 and 219-222.
3. ☒ The drawings filed on 15 October 1997 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

David J. Steadman, Ph.D.
Primary Examiner
Art Unit: 1656

Status of the Application

[1] The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 1656. Claims 110-113, 116-136, 144-148, 152-156, 181, 184, 186-189, 191-193, 195-202, 204-208, 211-216, 219-222 are pending in the application.

[3] Applicants' amendment to the claims, filed on 7/18/2005, is acknowledged. This listing of the claims replaces all prior versions and listings of the claims.

[4] Applicants' amendment to the specification, filed on 7/18/2005, is acknowledged.

[5] It is noted that the amendment to the specification filed 7/18/2005 incorrectly directs entry of a replacement paragraph to "page 135, at paragraph 3, line 27 to page 137, line 9." In a telephonic conversation with Mr. Mark Moore on 9/10/2005, it was clarified that the replacement paragraph should be entered at p. 136, paragraph 3, line 27 to page 137, line 9.

Examiner's Amendment to the Claims

[6] An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Mark D. Moore on 8/17/2005.

[7] **Replace** claim 111 with the following re-written claim:

Claim 111. An isolated nucleic acid consisting of a nucleic acid that encodes a polypeptide consisting of the amino acid sequence of SEQ ID NO:4, a nucleic acid that encodes a polypeptide consisting of the amino acid sequence of SEQ ID NO:45, a nucleic acid that encodes a polypeptide consisting of the amino acid sequence of SEQ ID NO:47, or a nucleic acid that encodes a polypeptide consisting of the amino acid sequence of SEQ ID NO:50.

[8] Cancel claims 157, 162, 169-172, 174-176, and 203.

[9] Replace “an isolated fragment” in lines 2-3 of claim 198 with “the isolated fragment”.

[10] Replace “an isolated fragment” in line 2 of claim 204 with “the isolated fragment”.

[11] Replace “an isolated” in line 2 of claims 205-207 with “the isolated”.

Reasons for Allowance

[12] The following is an Examiner’s statement of reasons for allowance. The examiner has found no teaching or suggestion in the prior art directed to a nucleic acid encoding SEQ ID NO:2, 4, 45, 47, or 50 or a nucleic acid encoding fragments of SEQ ID NO:4, 45, 47, or 50 as encompassed by the claims. Therefore, claims 110-113, 116-136, 144-148, 152-156, 181, 184, 186-189, 191-193, 195-202, 204-208, 211-216, 219-222, drawn to a nucleic acid encoding SEQ ID NO:2, 4, 45, 47, or 50, a nucleic acid encoding fragments of SEQ ID NO:4, 45, 47, or 50 as encompassed by the claims, a nucleic acid encoding SEQ ID NO:2 or 6 AND SEQ ID NO:4, 45, 47, or 50, and vectors and host cells are allowable over the prior art of record.


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[13] Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Steadman whose telephone number is 571-272-0942. The examiner can normally be reached on Mon to Thurs and alternate Fri, 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathleen Kerr can be reached on 571-272-0931. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David J. Steadman, Ph.D.
Primary Examiner
Art Unit 1656